

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

ALLISON DEVANTE,

Plaintiff,

vs.

No. 2:11-cv-2176-SHM-cgc

PAUL WOODS, ET AL,

Defendants

REPORT AND RECOMENDATION

Before the Court, by way of Order of Reference (D.E. # 56) is the September 17, 2013 “Motion for Summary Judgment & Injunctive, Declaratory and Prospective Relief” (D.E. # 67) filed by Plaintiff. The response of Tonia Cope, Timothy Rush and Paul Woods (“Defendants”) was filed on October 17, 2013 (D.E. # 68). Based on the Motion, response and the record in this case, it is RECOMMENDED that the Motion be DENIED.

Summary judgment under Rule 56 of the Federal Rules of Civil Procedure is proper “if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed.R.Civ.P. 56(a). The moving party bears the burden of establishing that no genuine issues of material fact exist. *Celotex Corp. v. Catrett*, 477 U.S. 317, 330 n. 2, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986); *Moore v. Phillip Morris Cos., Inc.*, 8 F.3d 335, 339 (6th Cir.1993). All facts and all inferences to be drawn therefrom must be viewed in the light most favorable to the non-moving party. *Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio*

Corp., 475 U.S. 574, 587, 106 S.Ct. 1348, 89 L.Ed.2d 538 (1986); *Burchett v. Kiefer*, 301 F.3d 937, 942 (6th Cir.2002).

It is recommended that Plaintiff has not met the threshold requirement to establish that there is no genuine dispute as to any material fact. To support her factual positions, Plaintiff must cite “to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials” Fed. R. Civ. P. 56(c)(1)(A). Local Rule 56.1(a) requires the moving party to file with the motion for summary judgment “a separate, concise statement of the material facts as to which the moving party contends there is no genuine issue for trial. Each fact shall be set forth in a separate, numbered paragraph. Each fact shall be supported by specific citation to the record.” Her motion is largely a repetition of the claims made in her Complaint, many of which have already been disposed of as baseless in a prior order of this Court (D.E. # 11). There is no separate statement of material Plaintiff makes conclusory statements unsupported by the record and has attached what purports to be a “Witness Affidavit” but does not indicate how the document establishes the absence of a genuine dispute.

Therefore, it is RECOMMENDED that Plaintiff's Motion for Summary Judgment be DENIED for failure to establish that there is no genuine dispute as to any material fact.

Signed this 6th day of February, 2014.

s/ Charmiane G. Claxton
CHARMIANE G. CLAXTON
UNITED STATES MAGISTRATE JUDGE

ANY OBJECTIONS OR EXCEPTIONS TO THIS REPORT MUST BE FILED WITHIN FOURTEEN (14) DAYS AFTER BEING SERVED WITH A COPY OF THE REPORT. 28 U.S.C. § 636(b)(1)(C). FAILURE TO FILE SAID OBJECTIONS OR EXCEPTIONS WITHIN FOURTEEN (14) DAYS MAY CONSTITUTE A WAIVER OF OBJECTIONS, EXCEPTIONS, AND ANY FURTHER APPEAL.